

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH80073-LD-39 (02/19)

Short Title: Bifurcation of Medical Malpractice Trials. (Public)

Sponsors: Representative England.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE BIFURCATION OF ISSUES OF LIABILITY AND
3 DAMAGES IN CERTAIN MEDICAL MALPRACTICE ACTIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 1A-1, Rule 42(b), reads as rewritten:

6 "(b) Separate trials. –

7 (1) The court may in furtherance of convenience or to avoid prejudice and shall
8 for considerations of venue upon timely motion order a separate trial of any
9 claim, cross-claim, counterclaim, or third-party claim, or of any separate
10 issue or of any number of claims, cross-claims, counterclaims, third-party
11 claims, or issues.

12 (2) Upon motion of any party in an action that includes a claim commenced
13 under Article 1G of Chapter 90 of the General Statutes involving a managed
14 care entity as defined in G.S. 90-21.50, the court shall order separate
15 discovery and a separate trial of any claim, cross-claim, counterclaim, or
16 third-party claim against a physician or other medical provider.

17 (3) Upon motion of any party in a medical malpractice action commenced under
18 Article 1B of Chapter 90 of the General Statutes wherein the plaintiff alleges
19 damages greater than one hundred thousand dollars (\$100,000), the court
20 shall order separate trials for the issue of liability and the issue of damages.
21 Evidence relating solely to pecuniary damages shall not be admissible until
22 the trier of fact has determined that the defendant is liable for medical
23 malpractice. The same trier of fact that tried the issues relating to liability
24 shall try the issues relating to damages."

25 **SECTION 2.** This act becomes effective October 1, 2009, and applies to actions
26 filed on or after that date.

